

Date : Aug 28, 2013 20:14 GMT  
To : 15713720500  
From : fax@requests.muckrock.com  
Subject: Follow up to Freedom of Information Request: 5 oldest FOIA requests

August 28, 2013  
Department of Defense, Office of the Secretary of Defense  
OSD/JS FOIA Requester Service Center  
Office of Freedom of Information  
1155 Defense Pentagon  
Washington, DC 20301-1155

This is a follow up to a previous request:

Hello,

The FOIA request below was submitted in December 2010, but according to our records never completed. Please advise?

Please note the change in MuckRock's address:

MuckRock News  
PO Box 55819  
Boston, MA 02205-5819

Thank you.

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On Dec. 22, 2010:

Mr. Smathers,

I would like to apply this to all FOIA requests sent to the DoD Components 5 oldest. As I understand it, they were sent within the past week or so. I don't know exactly how many or which components received the requests.

Thank you for agreeing. I will remind the Components that your request includes all records regarding the request except the responsive documents.

Regards,

Jim Hogan

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On Dec. 22, 2010:

I agree to exclude the responsive documents. I do however request a copy of the request letter. My FCIA request does include all records created in regard to the 5 oldest FOIA requests such as internal communication about the request and all other records mentioned in my request.

Regards,  
Jason Smathers

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On Dec. 21, 2010:

<i>MuckRock Editor's Note: The following three correspondence apply to all similar FCIA requests filed by Jason Smathers to DoD components filed in the same time period.</i>

<p>Mr. Smathers,

<p>I am sending this email on behalf of the DoD Component FOIA Offices. This references your requests for "All records referencing the five oldest FOIA and Privacy Act requests..." As for clarification, I am asking whether you intend to include the cases' responsive documents in your requests. The DoD Component FOIA Offices have received similar requests to yours in the past, and those requesters have excluded the responsive documents. If the documents are included, then the processing of your requests cannot be completed until those 5 oldest requests are completed (since your request would include documents still undergoing review in those cases). Excluding the responsive documents would allow the DoD Component FOIA Offices to complete your requests sooner.

<p>Please let me know whether you agree that your request excludes the responsive documents or not. I will relay your answer to the DoD Component FOIA Offices. Thank you.

<p>Regards,

<p>Jim Hogan  
<br />Defense Freedom of Information Policy Office

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On Dec. 8, 2010:

To Whom It May Concern:

This is a request under the Freedom of Information Act. I hereby request the following records:

All records referencing the five oldest FOIA and Privacy Act requests which are still being processed that contain remarks, comments, notes, explanations, etc. made by your personnel or contractors about the processing of these requests (and appeals, if appropriate), the invocation of exemptions, or related matters. This is to include any analysts' notes made during the processing of the requests, any standard worksheets completed by the analysts, any justifications for exemption invocations or other supporting documentation provided to the Appeals Authority, and any correspondence referencing the requests, including tasking orders, emails, and coordination documentation. However, any records previously released to the original requesters in unredacted form may be excluded from this request. Additionally, please provide the initial request letters for the 5 oldest open FOIA/PA requests.

When processing this request, please note that the D.C. Circuit has previously held that agencies have a duty to construe the subject material of FOIA requests liberally to ensure responsive records are not overlooked. See *Nation Magazine v. U.S. Customs Service*, 71 F.3d 885, 890 (D.C. Cir. 1995). Accordingly, you are hereby instructed that the term "records" includes, but is not limited to: 1) all email communications to or from any individual within your agency; 2) memoranda; 3) inter-agency communications; 4) sound recordings; 5) tape recordings; 6) video or film recordings; 7) photographs; 8) notes; 9) notebooks; 10) indices; 11) jottings; 12) message slips; 13) letters or correspondence; 14) telexes; 15) telegrams; 16) facsimile transmissions; 17) statements; 18) policies; 19) manuals or binders; 20) books; 21) handbooks; 22) business records; 23) personnel records; 24) ledgers; 25) notices; 26) warnings; 27) affidavits; 28) declarations under penalty of perjury; 29) unsworn statements; 30) reports; 31) diaries; or 32) calendars, regardless of whether they are handwritten, printed, typed, mechanically or electronically recorded or reproduced on any medium capable of conveying an image, such as paper, CDs, DVDs, or diskettes.

I also request that, if appropriate, fees be waived as I believe this request is in the public interest. The requested documents will be made available to the general public free of charge as part of the public information service at MuckRock.com, processed by

a representative of the news media/press and is made in the process of news gathering and not for commercial usage.

In the event that fees cannot be waived, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Jason Smathers  
Filed via MuckRock.com  
E-mail (Preferred): requests@muckrock.com  
Daytime: (617) 299-1832  
For mailed responses, please address:  
MuckRock  
185 Beacon St. #3  
Somerville, MA 02143

Filed via MuckRock.com  
E-mail (Preferred): 312-41702138@requests.muckrock.com

For mailed responses, please address (see note):  
MuckRock News  
DEPT MR 312  
PO Box 55819  
Boston, MA 02205-5819

PLEASE NOTE the new address as well as the fact that improperly addressed (i.e., with the requester's name rather than MuckRock News) requests might be returned by the USPS as undeliverable.